Applicants acknowledge with thanks the courtesy of a telephonic interview granted by Examiner Phan to applicants' representative, James M. Heintz, on September 25, 2006. Applicants' representative contacted the Examiner because he could not understand why the Office Action would again assert, on page 3, that the Bergman reference discloses determining a probability of attack after this very issue was the subject of the previous pre-appeal brief request for review which was decided in favor of applicants. Examiner Phan stated that despite the previous decision on this pre-appeal brief request for review, he still remained of the opinion that the prediction of an attack and detection of an attack were one in the same. However, the Examiner then stated that he believed that the Hill reference disclosed determining a probability that a terrorist attack will occur and suggested that applicants respond to the Office Action on that basis.

Double Patenting Rejection

Claims 1-12, 44 and 47 stand provisionally rejected on the basis of double patenting. Applicants submit herewith a terminal disclaimer. Withdrawal of the rejection is respectfully requested.

Rejections Under 35 U.S.C. § 103

Claims 1-12, 44 and 47 are pending in the application. Claim 1-12, 44 and 47 stand rejected under 35 U.S.C. § 103 as being obvious under the combination of Bergman and Hill. This rejection is respectfully traversed for the following reasons.

Claim 1 requires the processor to be configured to perform the step of "inputting information about a site of a potential terrorist attack from a user." The Office Action states that Bergman discloses "means for inputting information about a site of potential attacks (terrorize or local attacks) (Cols. 14-24)." First, the Examiner's paraphrasing of the claim ignores the requirement that the information be input <u>from a user</u>. (This inaccurate

paraphrasing of the claim language is repeated throughout the Office Action, as will be discussed in further detail below). The Office Action cites 11 columns of Bergman for this teaching, but fails to explain what constitutes the performance of the claimed step in the 11 cited columns. Applicants have reviewed the 11 cited columns and are unable to determine what the Examiner is referring to. The word "user" as recited in claim 1 is not mentioned anywhere in the 11 cited columns of Bergman. The 11 cited columns seem to refer to the processing performed by various modes in Bergman's network. The cited passage does not appear to address anything having to do with "inputting information about a site of a patented terrorist attack" from a user as required by Claim 1. Accordingly, withdrawal of the rejection is requested for this reason.

Claim 1 further requires the processor to be configured to perform the step of "constructing a model of the site based on the information input from the user." The Office Action cites col. 18, lines 18- col. 19, line 8 for this teaching. Again, the Office Action does not identify what in the cited passage constitutes the performance of the step. The word "model" does not appear in the passage; nor does the word "user." Accordingly, Bergman does not disclose or suggest this step and withdrawal of the rejection is respectfully requested.

Claim 1 further requires the processor to be configured to perform the step of "accepting a designation from the user of a weapon and delivery point at the site." The Office Action paraphrases this step as "accepting information from the threat" and asserts that Bergman discloses this step at col. 6 lines 44-47 or cols. 18-20 (because the Office Action combines this step with the next step in Claim 1, applicants are not able to determine which of the two cited passages refers to this step). However, neither cited passage discloses or suggests this step. Col. 6, lines 44-47 refers to identifying fault sets, which has nothing to do with accepting a designation from a user of a weapon and a delivery point at a site. Cols.

18-20 discuss attack localization techniques, but again this has nothing to do with accepting a designation from a user of a weapon and a delivery point at the site.

Claim 1 further recites the step of "determining a probability that a terrorist attack using the weapon and at the delivery point will occur, the probability being based at least in part on a trigger event." The Office Action, again, inaccurately paraphrases this step, referring to "fault detection," "fault propagation," "data stream flow," "signal crossing," "fatigue components". Applicants are simply at a loss as to what these words are supposed to mean or why the Office Action lists them, except that it again appears based on the first two references that the Office Action refuses to recognize or acknowledge the difference between determining a probability that an attack will occur and detecting an attack that is occurring. Once again, nothing in Bergman, including the passages cited in the Office Action, has anything to do with determining a probability that a terrorist attack using the weapon and at the delivery point will occur.

Hill also does not disclose or suggest this step. The Office Action cites col. 7, lines 40-45, col. 8, lines 50-58, and col. 9, lines 35-59 of Hill for this teaching. These passages all refer to "training signatures" and "simulated attacks." However, at col. 5, lines 39-45, Hill discloses that a simulated attack is a prediction of an attack type that is generated by an operator. Predicting a type of attack is different from predicting a probability that an attack will occur. Furthermore, Claim 1 requires an apparatus to perform the determination of the probability, whereas this step is performed by an operator in Hill. Accordingly, withdrawal of the rejection is requested for this reason as well.

Claim 1 further requires the step of "calculating a risk based at least partially on the accessibility and probability." The Office Action cites col. 6, lines 44-47, col. 11, lines 35-39 and col. 18, lines 20-25 of Bergman for the teaching. The first cited passage relates to a "polynomial-time algorithm for identifying faults." While this does appear to be a

calculation, it is not a calculation of a risk as recited in Claim 1. The second passage states the nodes in Bergman's system have fault detection capability. Again, fault detection has nothing to do with determining a risk based in part on a probability of attack. Moreover, this step of Claim 1 requires the calculation of a relative risk based on two quantities: probability and accessibility. The cited passages simply do not discuss the calculation of a risk based on the aforementioned factors. In other words, it the Office Action equates fault detection with probability of attack (which is incorrect), then there must be some factor other than fault detection that is used to determine risk as required by Claim 1). The third passage relied on in the Office Action does not appear to have anything to do with any type of calculation and applicants again do not understand how this passage is relevant to this step.

Hill also does not disclose or suggest this step. Hill does not disclosure or suggest that the human operator who scripts the simulated attacks, performs any calculation of risk or any other calculation. Accordingly, withdrawal of the rejection for this reason is respectfully requested.
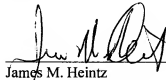
For all of the foregoing reasons, Claim 1 defines patentable subject matter. The rejection of independent Claim 7 is apparently based on a similar rationale as that used to reject Claim 1. Therefore, the deficiencies discussed above in connection with Claim 1 appear to apply equally to Claim 7. Therefore, Claim 7 also differs patentable subject matter. All other currently pending claims depend directly or indirectly from Claims 1 or 7 and thus define patentable subject matter for at least this reason.

Applicants also note that dependent Claims 4-6 were rejected in the Office Action, but the Office Action fails to state any basis for the rejection other than stating that "Bergman anticipates the claimed limitations." Applicants respectfully submit that such a rejection is prima facie improper and therefore request withdrawal of the rejection.

In light of the above, Applicants submit that this application is now in condition for allowance and therefore request favorable consideration. If any issues remain which the Examiner feels may be best resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact Applicants counsel, James M. Heintz at 202.861.4167.

Respectfully submitted,

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